

JUDGE DANIELS

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

DANIEL J. PAGAN, an individual, )  
Plaintiff, )  
v. )  
LYFE BRAND, LLC, and )  
THE GARMENT GROUP, INC. )  
Defendants. )

16 CV 0338  
Civil Action No.  
JURY TRIAL DEMANDED

**COMPLAINT FOR TRADEMARK INFRINGEMENT,  
UNFAIR COMPETITION AND RELATED CLAIMS**

Plaintiff, Daniel J. Pagan, alleges his complaint against Defendants, Lyfe Brand, LLC and The Garment Group, Inc., as follows:

**NATURE OF THE ACTION**

1. This action arises from Defendant's infringement of Plaintiff's "ownership" and exclusive "use" rights in the mark LYFE®, in conjunction with clothing and related goods. Despite Plaintiff being the registered owner of the trademark LYFE® and offering various clothing items under such brand name, and similar variations thereof, the Defendants have infringed Plaintiff's rights in the aforementioned mark by manufacturing, advertising, selling, and offering for sale clothing under Plaintiff's trademark. Plaintiff has already experienced "actual confusion" in connection with this matter and is likely to continue to experience confusion as to the affiliation or connection between the Defendants and Plaintiff resulting in the unjust enrichment of Defendants by using Plaintiff's registered trademark.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 15 U.S.C. §1051 *et seq.*, 15 U.S.C. Sections 1114-1116; under Section 43(a) of the Trademark Act, 15 U.S.C. §1125(a) and Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

3. This Court has personal jurisdiction over the Defendants because Defendants engage in business activities in, and directed to the State of New York within this judicial district and because Defendants have committed tortious acts aimed at and causing harm within the State of New York and this judicial district.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) because it is where Plaintiff resides and the Defendant transacts business and/or maintains an office or business location in this district, and because a substantial portion of the events giving rise to the asserted claims have occurred, and continue to occur, within this district. Furthermore, the damage to Plaintiff and its intellectual property described herein continues to occur in this judicial district.

**THE PARTIES**

5. Plaintiff, Daniel J. Pagan is an individual with an address at 40 East 9<sup>th</sup> Street – Suite 3F, New York, NY 10003.

6. Upon information and belief, LYFE Brand, LLC is a Florida Limited Liability Company with a principal place of business at 20631 NW 7<sup>th</sup> Ct., Miami, Florida 33169.

7. Upon information and belief, The Garment Group, Inc. is a Florida corporation with a principal place of business at 9009-9013 NW 105 Way, Medley, Florida 33178.

**FACTS**

8. Since at least as early as 2012, Plaintiff Daniel J. Pagan has been selling headwear, t-shirts, sweaters, hooded sweatshirts and other clothing items under the LYFE® and LIVE YOUNG FREE EVERYDAY™ brand names.

9. Since at least as early as 2013, Plaintiff has been independently operating a clothing business and silk screen printing shop under the name LYFE® L.Y.F.E.™, which has sold headwear, t-shirts, sweaters, hooded sweatshirts and other related clothing items under the LYFE® marks.

10. In addition to selling and offering for sale clothing items under the LYFE®, L.Y.F.E.™ and LIVE YOUNG FREE EVERYDAY™ brand names, Plaintiff also has a creative agency that advertises, and promotes additional clothing, design services and other similar goods and services directed at the apparel industry and operates such divisions under the names LYFE® Shop, LYFE® Clothing Co., and LYFE® Studios and Printing.

11. Plaintiff sells, and promotes the sale of his LYFE® collection of clothing as well as promotes his other goods and services under the LYFE® brand via his website [www.thelyfestudios.com](http://www.thelyfestudios.com), and in other ways customary in the clothing trade.

12. Plaintiff advertises his goods and services under the LYFE® brand through flyers, posters, stickers and through grass root street marketing methods. Plaintiff also regularly conducts photo shoots of customers who purchase his LYFE® clothing items to be included in marketing materials.

13. Plaintiff is the registered owner of United States Trademark Registration No. 4,595,742 for the mark LYFE®. (See Exhibit A).

14. Plaintiff is also the owner of United States Trademark Serial Application No.'s 85/775,472 and 85/770,354 for the mark LYFE™. (See Exhibit B).

15. Plaintiff is informed and believes and thereon alleges that Defendant Lyfe Brand, LLC is marketing, selling and offering for sale various clothing items bearing the LYFE mark. (See Exhibit C).

16. Plaintiff is informed and thereon believes that Defendant The Garment Group, Inc., is manufacturing, promoting and advertising various clothing items bearing the LYFE mark on behalf of Defendant Lyfe Brand, LLC.

17. Defendant's use of Plaintiff's LYFE® brand in connection with clothing has already caused and will continue to cause confusion as to the source or affiliation of the clothing related goods bearing the LYFE® mark.

**FIRST CAUSE OF ACTION**  
**TRADEMARK INFRINGEMENT (15 U.S.C. §§ 1114-1116)**

18. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 17 of this Complaint.

19. The use in commerce by Defendant of an identical and slightly identical version of Plaintiff's registered trademark is likely to cause confusion, mistake and deception among members of the public and in trade as to the source, origin, or sponsorship of defendants' goods and services. Such use by defendant constitutes a clear and direct infringement of Plaintiff's rights in and to Plaintiff's registered trademark, and has resulted in injury and damage to Plaintiff that will continue if defendant is not ordered to cease all use of the LYFE® mark.

**SECOND CAUSE OF ACTION**  
**UNFAIR COMPETITION & FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))**

20. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 19 of this Complaint.

21. Plaintiff has the exclusive right to market, brand and provide clothing related goods using the LYFE® mark.

22. Defendants by reason of the aforementioned acts, have falsely described, represented and designated the origin of its goods and services. Defendants' activities already have confused the public into believing that defendants and Plaintiff's clothing goods and accessories come from one and the same source, and defendants continued activities are likely to create further confusion and deceive the public concerning the source of the goods/services.

23. Defendants have unfairly profited from the actions alleged herein and will continue to unfairly profit and become unjustly enriched unless and until such conduct is enjoined by this Court.

24. By reason of Defendant willful acts conducted in conscious disregard for Plaintiff's rights, Plaintiff is entitled to treble damages under 15 U.S.C. § 1117(a).

### **THIRD CAUSE OF ACTION**

#### **COMMON LAW TRADEMARK INFRINGEMENT & UNFAIR COMPETITION**

25. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 24 of this Complaint.

26. Defendant's conduct constitutes deception by which Defendant goods will be palmed off as those of Plaintiff. Such conduct constitutes trademark infringement and unfair competition in violation of the laws of the State of New York.

27. Defendants unauthorized use of Plaintiff's LYFE® mark is likely to continue to cause further confusion to the public as to the clothing goods and accessories of the respective parties.

28. By reason of the foregoing, Defendant has infringed and continues to infringe on Plaintiff's common law rights in the LYFE® mark and defendant has become unjustly enriched by such acts of infringement.

29. Defendant's unlawful conduct has been and will continue to be willful or willfully blind to Plaintiff's rights, as Defendant has reason to know of Plaintiff's rights.

**FOURTH CAUSE OF ACTION  
UNJUST ENRICHMENT**

30. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 29 of this Complaint.

31. Defendants have unjustly retained profits from the sale of clothing goods and accessories bearing Plaintiff's LYFE® mark.

32. Defendants actions constitute unjust enrichment.

**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for relief as follows:

1. Entry of an order and judgment requiring that all defendant, its subsidiaries, officers, agents, servants, employees, owners, and representatives, and all other persons or entities in active concert or participation with them, be preliminarily and, thereafter, permanently enjoined and restrained from (a) using in any manner the trade name, trademark, domain name or other indicia or origin, including in whole or part the term LYFE®, or any colorable imitation thereof; (b) advertising, operating a website, using business stationary or offering any goods or

services using the trade name, trademark, domain name, URL, or any other indicia of origin including in whole or part the term LYFE®, or any colorable imitation thereof; (c) otherwise engaging in any acts of unfair competition and infringement which tend to injure Plaintiff's rights in the LYFE® mark.

2. That Defendant be required to account to Plaintiff for any and all profits derived by it, and to compensate Plaintiff for all the damages sustained by reason of the acts complained of herein, and that the damages herein be trebled pursuant to the Trademark Act.

3. That Defendants be ordered to deliver up for destruction any and all infringing materials bearing the LYFE® mark, and any colorable imitation thereof, in whole or part.

4. That Plaintiff be awarded punitive damages.

5. That Defendant be required to place advertisements or send notifications to past and present customers that it improperly has been using the LYFE® mark.

6. That Plaintiff be awarded the cost and disbursements of this action.

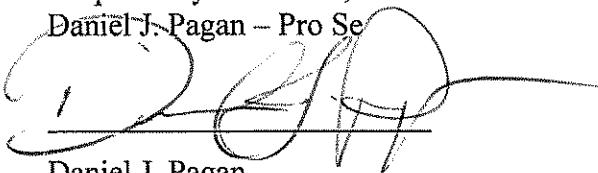
7. That Plaintiff have such other and further relief as the Court deems just and proper.

#### **JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all issues.

Dated: January 14, 2016  
New York, New York

Respectfully submitted,  
Daniel J. Pagan – Pro Se



Daniel J. Pagan  
Pro Se Plaintiff  
40 East 9<sup>th</sup> Street – Apt. #3F  
New York, New York 10003  
(718) 873-5564

**EXHIBIT A**



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Word Mark	LYFE
Goods and Services	IC 025. US 022 039. G & S: Hats; Jeans; Shorts; Socks; Sweaters; Sweatshirts; T-shirts; Underwear. FIRST USE: 20130101. FIRST USE IN COMMERCE: 20130501
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	86062388
Filing Date	September 12, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 17, 2014
Registration Number	4595742
Registration Date	September 2, 2014
Owner	(REGISTRANT) Pagan, Daniel INDIVIDUAL UNITED STATES #3 105 Ralph Ave Brooklyn NEW YORK 11221
Attorney of Record	Laura Valden
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized letters "LYFE" combined to create a one figure logo.
Type of Mark	TRADEMARK
Register	PRINCIPAL

Live/Dead  
Indicator

LIVE

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**EXHIBIT B**



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<b>Word Mark</b>	L.Y.F.E
<b>Goods and Services</b>	IC 025. US 022 039. G & S: Hats; Jeans; Shirts; Socks; Sweat pants; Sweat shirts; Sweaters; Underwear
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches 05.03.25 - Leaf, single; Other leaves 26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles 26.01.26 - Coils; Spirals; Swirls 27.01.03 - Letters forming plants; Numbers forming plants; Plants composed of letters or numerals; Punctuation forming plants
<b>Serial Number</b>	85775472
<b>Filing Date</b>	November 9, 2012
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Owner</b>	(APPLICANT) Pagan, Daniel INDIVIDUAL UNITED STATES 71 Sands Street Staten Island NEW YORK 10304
<b>Attorney of Record</b>	Laura Valden
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of the stylized letters "L.Y.F.E". L.Y.F.E is spelt out very simple with little leafs hanging off the edges. An image of a circular design below the text.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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# L.Y.F.E

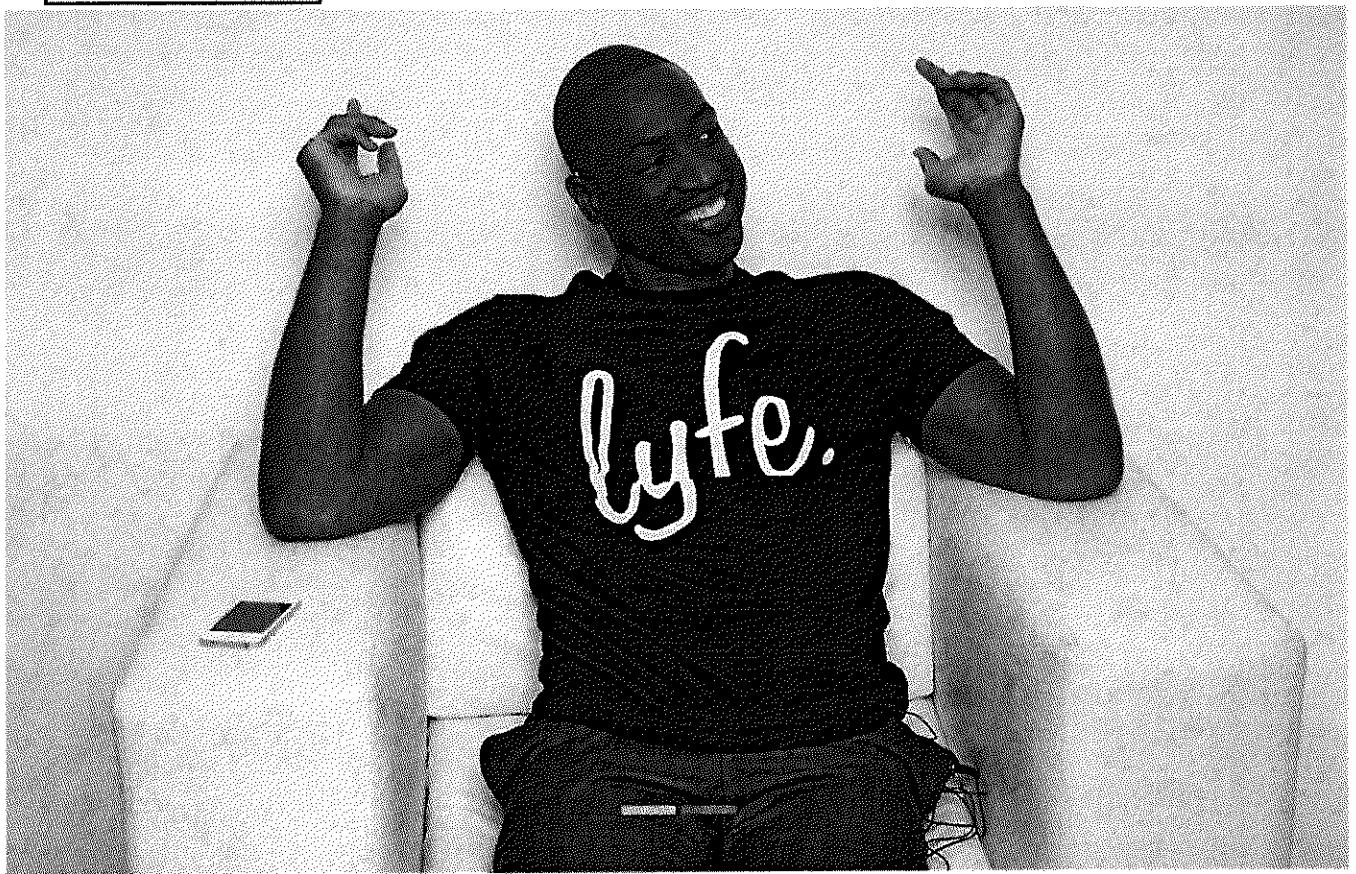
Word Mark	L.Y.F.E
Goods and Services	IC 025. US 022 039. G & S: Hats; Jeans; Shirts; Socks; Sweaters; Sweatpants; Sweatshirts; Underwear
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85770354
Filing Date	November 2, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Pagan, Daniel J INDIVIDUAL UNITED STATES 71 Sands St Staten Island NEW YORK 10304
Attorney of Record	Laura Valden
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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**EXHIBIT C**

LYFE BRAND

HOME LYFE BLOG MEN WOMEN KIDS ACCESSORIES 



## FRONTPAGE



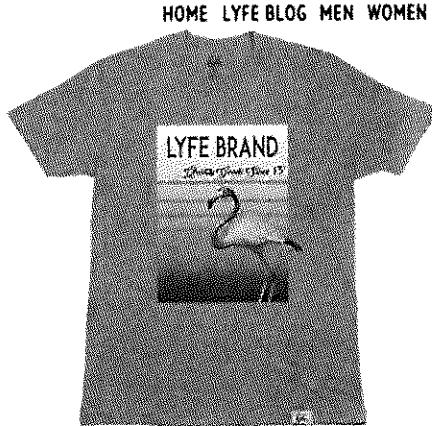
Freedom Flamingo  
\$32.00



90 Miles  
\$32.00



Always Winning  
\$32.00



STACKED  
\$32.00

Quality Goods  
\$32.00

World Jersey CARDINAL  
\$32.00

## LYFE BLOG

### SPRING DROP 1

January 11, 2016

#### SPRING DROP 1

COLLECTION FLAMINGO SZN WE HAVE A FEW STORIES TO SHARE WITH YOU THROUGHOUT OUR COLLECTION STARTING WITH OUR FREEDOM COLLECTION INSPIRED BY THE COLORS OF CUBA AND THE VIBES OF MIAMI. STAY TUNED. DON'T MISS OUT ON OUR FIRST DROP OF THE YEAR AS SIZES WILL BE LIMITED. XS ~ S ~ M ~ L ~ XL ~ XXL ~ XXXL

#### THE FREEDOM

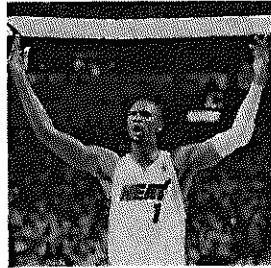
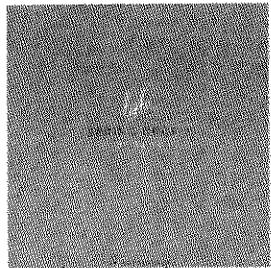
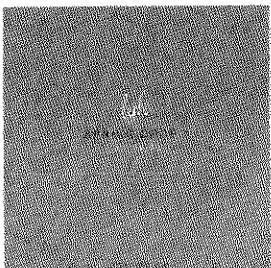
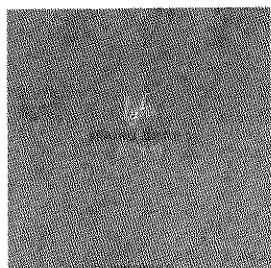
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### DWAYNE WADE HOST NBA IMPERSONATOR BRANDON ARMSTRONG

November 20, 2015

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## INSTAGRAM



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Home / MEN / LYFE Script Black/White

HOME LYFE BLOG MEN WOMEN KIDS ACCESSORIES

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## LYFE SCRIPT BLACK/WHITE

\$32.00

LYFE Script logo premium fitted men's black/white short sleeve

100% combed cotton

4.3 oz.

32 singles for extreme softness

## Size

X-SMALL

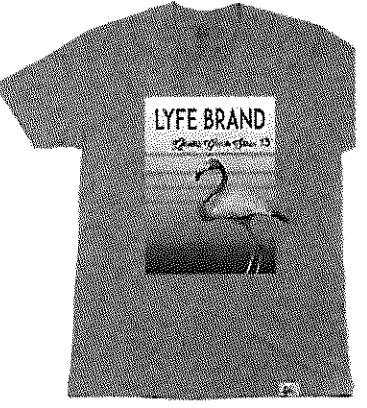
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